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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,056	10/11/2004	Ralf Prenzel	112740-1015	6152

29177 7590 07/17/2006

BELL, BOYD & LLOYD, LLC  
P. O. BOX 1135  
CHICAGO, IL 60690-1135

EXAMINER

SAFAIPOUR, BOBBAK

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/511,056

Applicant(s)

PRENZEL ET AL.

Examiner

Bobbak Safaipoor

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/10/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Information Disclosure Statement*

2. The information disclosure statement submitted on 11/10/2004 has been considered by the Examiner and made of record in the application file.

### *Drawings*

3. **Figures 1 and 2** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance. If a response to the present Office Action fails to include proper drawing corrections, corrected drawings or arguments therefor, the response can be held **NON-RESPONSIVE** and/or the application could be **ABANDONED** since the objections/corrections to the drawings are no longer held in abeyance.

***Claim Objections***

4. Claim 16 is objected to because of the following informalities:

- a) **line 5 of claim 16**, delete “and” after unit;
- b) **line 8 of claim 16**, insert --and-- after message.

Appropriate correction is required.

5. Claim 30 is objected to because of the following informality:

On **line 2 of claim 16**, replace “transmitted” with --transmitting-- before “the” and after “for”.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 16-25, 27-30** are rejected under 35 U.S.C. 102(b) as being anticipated by **Wireless Application Protocol, MMS Encapsulation Protocol, Version 05-Jan-2002 (hereinafter WAP)**.

Consider **claim 16**, Wireless Application Protocol (hereinafter WAP) clearly shows and discloses a method for transferring multimedia messages between the terminal and the MMS Proxy-Relay (read as transmitting data having multimedia contents from a first communications unit to a second communications unit in a telecommunications network) (4. Introduction, page 9 of 39), the method comprising:

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sending of multimedia messages (read as transmitting at least one transmission status message) (6.1 Sending of Multimedia Message, page 11 of 39) to the sending client (first communications unit) (6.1 Sending of Multimedia Message, page 11 of 39); and

providing, upon non-deliverability of data to the second communications unit, a response-status field message (item of information) (7.2.20. Response-Status field, page 26 of 39) indicating the type of error (concerning the non-deliverability of the transmitted data) (7.2.20. Response-Status field, page 26 of 39) in the transmission status message. WAP clearly shows and discloses several specific items of information concerning the non-deliverability of transmitted data, such as “Error-service denied” or “Error-content-not-accepted” (7.2.20. Response-Status field, page 26 of 39); and

wherein the non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit indicated by a response-status field message “Error-content-not-accepted” (read as is not acknowledged by the second communications unit) (7.2.20. Response-Status field, page 26 of 39) via a Response-Status field message (respectively associated confirmation message) (7.2.20. Response-Status field, page 26 of 39).

Consider **claim 17**, and as **applied to claim 16 above**, WAP clearly shows and discloses an item of information concerning the non-deliverability of the data sent is provided in the transmission status message if the data cannot be delivered to the second communications unit within the time of desired delivery (definable period of validity) (6.1.1. Send request, page 12 of 39).

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Consider **claim 18**, and as **applied to claim 16 above**, WAP clearly shows and discloses, wherein the non-deliverability of the data sent applies if the correct receipt of the data sent and of a recipient notification message concerning the data to be transmitted to the second communications unit indicated by a delivery-report field message “Delivery-report-value = No = <Octet 120>” (read as is not acknowledge by the second communications unit) (7.2.6. Delivery-Report field, page 23 of 39) via a delivery-report field message (respectively associated confirmation message) (7.2.6. Delivery-Report field, page 23 of 39).

Consider **claim 19**, and as **applied to claim 16 above**, WAP clearly shows and discloses a wireless communication (telecommunications) (1. Scope, page 5 of 39) network that includes a switching arrangement via which the data is transmitted from the terminal and the MMS Proxy-Relay (first communications unit to the second communications unit) (4. Introduction, page 9 of 39), and wherein the switching arrangement establishes a delivery-report field indicating a “Delivery-report-value = No <Octet 129>” (read as the non-deliverability of the data sent and sends the transmission status message to the first communications unit) (7.2.6. Delivery-Report field, page 23 of 39). Although WAP fails to specifically disclose a switching arrangement, it is inherent to WAP to have a switching arrangement so that messages can be transmitted from the first communications unit to the second communications unit.

Consider **claim 20**, and as **applied to claim 16 above**, WAP clearly shows and discloses a method wherein the data is transmitted via a Multimedia Messaging Service by using a Wireless Application Protocol (1. Scope, page 5 of 39).

Consider **claim 21**, and **as applied to claim 20 above**, WAP clearly shows and discloses a method wherein the recipient notification message includes a Multimedia Message Service message in a category “X-Mms-Message-Type: m-notification-ind.” (7.2.14. Message-Type field, page 25 of 39).

Consider **claim 22**, and **as applied to claim 20 above**, WAP clearly shows and discloses a method wherein the data is transmitted to the recipient via at least one Multimedia Messaging Service message in a category “X-Mms-Message-Type: m-retrieve-conf.” (7.2.14. Message-Type field, page 25 of 39).

Consider **claim 23**, and **as applied to claim 20 above**, WAP clearly shows and discloses a method wherein the transmission status message includes a Multimedia Messaging Service message in a category “X-Mms-Message-Type: m-delivery-ind.” (6.5. Delivery Reporting, page 19 of 39).

Consider **claim 24**, and **as applied to claim 23 above**, WAP clearly shows and discloses a method wherein the item of information concerning the non-deliverability of the data set is represented by the value “<Octet 133>” in the data field “X-Mms-Status” of the transmission status message (7.2.14. Message-Type field, page 25 of 39; 7.2.20. Response-Status field, page 26 of 39).

Consider **claim 25**, and **as applied to claim 16 above**, WAP clearly shows and discloses a mobile station/terminal (read as wherein at least one of the first communications unit and the second communications unit is a mobile communication module) (4. Introduction, page 9 of 39).

Consider **claim 27**, WAP clearly shows and discloses a switching arrangement for transmitting data in a wireless communications (telecommunications) (1. Scope, page 5

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of 39) network between a terminal and a MMS Proxy-Relay (read as from a first communications unit to a second communications unit (4. Introduction, page 9 of 39), comprising a protocol data unit (PDU) (apparatus) (4. Introduction, page 9 of 39) for producing a transmission status message which is assigned to the data to be transmitted to the second communications unit, the PDU (apparatus) (4. Introduction, page 9 of 39) providing a response-status field message (item of information) (7.2.20. Response-Status field, page 26 of 39) indicating the type of error (read as concerning the non-deliverability of the data to be transmitted) (7.2.20. Response-Status field, page 26 of 39) in the transmission status message if the delivery-report indicated "Delivery-report-value = No = <Octet 129>" (the data cannot be delivered to the second communications unit) (7.2.6. Delivery-Report field, page 23 of 39), and with regard to the PDU (apparatus) (4. Introduction, page 9 of 39) for producing the transmission status message, non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit indicated by a delivery-report field message "Delivery-report-value = No = <Octet 120>" (read as is not acknowledge by the second communications unit) (7.2.6. Delivery-Report field, page 23 of 39) via a delivery-report field message (respectively associated confirmation message) (7.2.6. Delivery-Report field, page 23 of 39).

Consider **claim 28**, and as applied to **claim 27** above, WAP clearly shows and discloses, a PDU (apparatus) (4. Introduction, page 9 of 39) for producing the transmission status message provides an item of information concerning the non-deliverability of the data to be transmitted in the transmission status message if the data



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cannot be delivered to the second communications unit within the time of desired delivery (definable period of validity) (6.1.1. Send request, page 12 of 39).

Consider **claim 29**, and as applied to claim 27 above, WAP clearly shows and discloses wherein the non-deliverability of the data sent applies if the correct receipt of the data sent and of a recipient notification message concerning the data to be transmitted to the second communications unit indicated by a delivery-report field message “Delivery-report-value = No = <Octet 120>” (read as is not acknowledge by the second communications unit) (7.2.6. Delivery-Report field, page 23 of 39) via a delivery-report field message (respectively associated confirmation message) (7.2.6. Delivery-Report field, page 23 of 39).

Consider **claim 30**, and as applied to claim 27 above, WAP clearly shows and discloses a switching arrangement further comprising a PDU (apparatus) (4. Introduction, page 9 of 39) for transferring multimedia messages between the terminal and MMS Proxy-Relay (read as transmitting the transmission status message to the first communications unit) (4. Introduction, page 9 of 39).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. **Claims 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wireless Application Protocol, MMS Encapsulation Protocol, Version 05-Jan-2002 (hereinafter WAP) in view of Aho (US Patent Application Publication # 2001/0010685 A1).**

Consider **claim 26**, and as applied to **claim 16 above**, WAP clearly shows the claimed invention except wherein the telecommunications network is a wireless (mobile) (1. Scope, page 5 of 39) communications network and at least the terminal and the MMS Proxy-Relay (read as one of the first communications unit and second communications

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unit) (4. Introduction, page 9 of 39) operate as defined by a standard that is at least one of GSM, GPRS, EDGE, and UMTS.

In the same field of endeavor, Aho clearly shows and discloses, as known in the art, WAP technology that operates in a GPRS network (paragraphs 2 and 4).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the well-known teachings of Aho into the system of WAP to support the GPRS network in order to support the wireless communication network.

***Conclusion***

9. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipoor whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Rafael Perez-Gutierrez can be reached on (571) 272-7915. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

*Bobbak Safaipoor*  
B.S./bs

June 15, 2006

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